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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,758	12/01/2003	Richard F. Crook	TPR110014000	3277

22891 7590 09/21/2005

DELIO & PETERSON
121 WHITNEY AVENUE
NEW HAVEN, CT 06510

EXAMINER

FLANIGAN, ALLEN J

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/725,758	Applicant(s) CROOK, RICHARD F.	
	Examiner Allen J. Flanigan	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13,20-36 and 44-55 is/are pending in the application.
- 4a) Of the above claim(s) 6,9,13,20-36,44-49,51 and 53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10, 11, 52, and 54 is/are rejected.
- 7) ☒ Claim(s) 12,50 and 55 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 6, 9, 13, 20-36, 44-49, 51, and 53 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 3/7/2005.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 54 is rejected under 35 U.S.C. 102(b) as being anticipated by Colgon.

Please see the comments made in regard to the above rejection in the previous Office action.

Claims 1-5, 7, 10, 11, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura in view of Kato et al., further in view of Waterman et al.

Please see the comments made in regard to the rejection of claims 1 etc. in the previous action, and also those made in regard to Kato et al. As noted previously, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to substitute a known silicone sealant for sealing or "potting" the tube ends in place of the resin suggested in Tamura et al.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura in view of Kato et al. and Waterman et al. as applied to claim 1 above, further in view of Inoue.

Inoue teaches that silicone rubber compositions that cure upon exposure to ultraviolet radiation for use as sealants, potting agents, etc. are known in the art. Thus, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to use such known compositions as sealant in the heat exchanger of Tamura.

Applicant's arguments filed 8/1/2005 have been fully considered but they are not persuasive or are moot in view of the new grounds of rejection.

The arguments regarding claim 54 are not persuasive. It strains credulity to suggest that a coating layer of rubber (or most any coating, for that matter) may not necessarily adhere or "bond" to the surface coated. Adherence, i.e. intermolecular forces between materials, is an inherent property of almost every coating. No particular degree of adhesion is specified in the claims.

The arguments regarding the remaining claims are moot in view of the new rejection based on Tamura in view of Kato et al. and Waterman et al.

Claim 55 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12 and 50 are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen J. Flanigan whose telephone number is (571) 272-4910. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (571) 272-4930. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3753

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Allen J. Flanigan
Primary Examiner
Art Unit 3753

AJF